

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RECEIVED
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
CHICAGO, ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 78 C 1004

OUTBOARD MARINE CORPORATION,

Defendant, Third-Party
Plaintiff, and Cross-
Claim Defendant,

and

Honorable Susan Getzendanner

MONSANTO COMPANY,

Defendant, Third-Party
Defendant, and Cross-
Claim Plaintiff.

NOTICE OF FILING

TO: SEE ATTACHED LIST

PLEASE TAKE NOTICE that we have filed the attached DEFENDANT MONSANTO COMPANY'S SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES, a true copy of which has been served upon you.

This 8th day of June, 1982.

Bruce G. Featherstone

Fred H. Bartlit, Jr.
James H. Schink -
Bruce A. Featherstone

Kirkland & Ellis
200 East Randolph Drive
Chicago, Illinois 60601

Attorneys for Defendants

16-5V28.0/083

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	NO. 78 C 1004
)	
v.)	
)	
OUTBOARD MARINE CORPORATION,)	
)	
Defendant, Third-Party)	
Plaintiff, and Cross-)	
Claim Defendant,)	
)	
and	)	Honorable Susan Getzendanner
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and Cross-)	
Claim Plaintiff.)	

DEFENDANT MONSANTO COMPANY'S SECOND SET OF
REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure, defendant Monsanto Company requests that plaintiff United States make the following admissions:

REQUESTS TO ADMIT

1. Wayne Willford, an employee of the U.S. Fish & Wildlife Service, is familiar with the data showing levels of PCB residue in various species of Lake Michigan fish.

2. In his capacity as Chief of the Section of Physiology and Contaminant Chemistry of the U.S. Fish & Wildlife Service, Willford gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State

University on March 15-17, 1982, in which he discussed the results of efforts to monitor PCB residue in Lake Michigan fish.

3. In this speech Willford admitted there have been "significant declines" in the PCB levels in fish caught in southern Lake Michigan.

4. Willford admitted that recent data show that the percent decline by year in the PCB levels in fish caught in Lake Michigan is "getting more rapid" and "getting stronger" each year.

5. Willford admitted that "it seems to be the consensus by all the states involved in monitoring programs that there have been significant declines in PCB levels in the fish that they looked at" from Lake Michigan.

6. Based on his review of the data, it is Willford's opinion that the data for PCB levels in Lake Michigan fish show that there have been significant declines in the PCB levels in these fish since 1975.

7. It is Willford's opinion that recent data for fish caught in Lake Michigan show that the percent decline in the PCB levels is increasing and getting more rapid each year.

8. It is Willford's opinion that the data collected by the states monitoring PCB levels in fish from Lake Michigan show significant declines in PCB levels in recent years.

9. The United States knows of no person who has suffered any immunological disorder caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

10. The United States knows of no person who has suffered any cancer caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

11. The United States knows of no human birth defects caused by PCB in any infant born to any person who has consumed fish or drinking water from Lake Michigan.

12. The United States knows of no person who has suffered any sickness caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

13. The United States knows of no person who has suffered any chloracne, dermatitis or skin disorder caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

14. The United States knows of no person who has suffered any neurological disorder caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

15. The United States knows of no person who has suffered any fatigue caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

16. The United States knows of no person who has suffered any reduction or impairment in his vital lung capacity caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

17. The United States knows of no person who has suffered any hypertension caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

18. The United States knows of no instance of mutagenicity caused by the PCB exposure through the consumption of fish or drinking water from Lake Michigan.

19. The United States knows of no instance of fetotoxicity caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

20. The United States knows of no instance of teratogenicity caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

21. The United States knows of no instance of abnormal blood pressure in any person caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

22. The United States knows of no person who has suffered any heart disease or blood disease caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

23. The United States knows of no person who has suffered any reduced physical growth caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

24. The United States knows of no person who has suffered any mental or behavioral disorder caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

25. On March 15, 1982, Dr. C. Albert Kolbye, Jr. was employed by the United States Food and Drug Administration as the Associate Director of Sciences, Bureau of Foods, and in

this position was familiar with toxicological research regarding PCBs.

26. On March 15, 1982, Dr. Kolbye, in his capacity at FDA, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University.

27. In his speech, Dr. Kolbye admitted that the results of Dr. Allen's research into the effects of PCBs on the infant rhesus monkey are not relevant to humans.

28. In his speech at Michigan State, Dr. Kolbye admitted that PCBs should not be considered mutagens.

29. It is Dr. Kolbye's opinion that the results of Dr. Allen's experiments on the effect of PCB exposure through the maternal rhesus monkey on the fetus or infant rhesus monkey are not relevant to humans.

30. It is Dr. Kolbye's opinion that the interpretation of the results of Dr. Allen's rhesus monkey research is confused because Dr. Allen fed the mother monkeys amounts of PCB that caused the mother monkeys to be sick.

31. In Dr. Kolbye's opinion, it is not clear which results in the infant rhesus monkeys can be attributed to PCB.

32. It is Dr. Kolbye's opinion that PCBs should not be considered mutagens.

33. Monsanto's various reformulations of Pydraul in 1970-72, including Pydraul A-200A, A-200B, and 50E, which were sold to Johnson Motors, were not required by USEPA or any other agency of the United States.

34. Monsanto's decision to take PCBs out of its Pydraul fluids was not required by USEPA or any other agency of the United States.

35. Monsanto's decision to restrict the sale of PCBs to dielectric fluids after 1972 was not required by USEPA or any other agency of the United States.

36. The timetable set forth in Exhibit A (attached hereto) for the transition to phosphate ester Pydraul was not required by USEPA or any other agency of the United States.

37. Neither USEPA nor any other agency of the United States had any involvement in setting up the transition timetable in Exhibit A.

38. Karl Bremer, an employee of Region V, USEPA, attended the International Symposium on PCBs in the Great Lakes on March 15-17, 1982 in East Lansing, Michigan in his capacity as an employee of Region V, USEPA.

39. On March 17, Bremer gave a speech at the Symposium in his capacity at Region V, USEPA.

40. In his speech Bremer admitted that in the early 1970s Monsanto "voluntarily" restricted PCBs to dielectric fluids.

41. At the Symposium Bremer further admitted that Monsanto's decision to restrict the sale of PCBs led to an "industry awareness" of PCBs.

42. It is Bremer's opinion that in the early 1970s, Monsanto voluntarily restricted PCBs to dielectric fluids.

43. It is Bremer's opinion that Monsanto's decision to restrict the sale of PCBs to dielectric fluids led to an industry awareness of PCBs.

44. The air in and near Waukegan Harbor and the property of Outboard Marine Corporation poses no significant human health problem attributable to PCBs.

45. The drinking water in Waukegan, Illinois poses no significant human health problem attributable to PCBs.

46. Dr. Harold E.B. Humphrey, an employee of the Michigan Department of Public Health, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University on March 15-17, 1982.

47. In his speech, Dr. Humphrey admitted that he has done a follow-up study of persons who he studied and reported on in his 1976 contract report to FDA entitled "Evaluation of Changes of the Level of Polychlorinated Biphenyls (PCB) in Human Tissue."

48. The persons who were reexamined by Dr. Humphrey and his group were classified as heavy fisheaters. These persons included those who consume relatively large quantities of Lake Michigan fish.

49. Dr. Humphrey admitted that his reexamination of these persons did not show any correlation between any of the health problems studied and the amount of fish consumption from Lake Michigan or PCB exposure through fish consumed from Lake Michigan.

50. Dr. Humphrey's reexamination of persons who consume fish from Lake Michigan has not shown any correlation between any health problem studied and any amount of fish consumption from Lake Michigan or PCB exposure through fish consumed from Lake Michigan.

51. In his reexamination of persons who eat large quantities of fish from Lake Michigan, Dr. Humphrey studied the same health problems or effects listed in his earlier study for the FDA.

52. The results of Dr. Humphrey's reexamination mean that again he was unable to find that heavy consumption of Lake Michigan fish caused any of the health problems that were studied.

Dated:

6/8/82

Bruce A. Featherstone
Fred H. Bartlit, Jr.
James H. Schink
Bruce A. Featherstone

Kirkland & Ellis
200 E. Randolph Dr.
Chicago, Illinois 60601
(312) 861-2000

Attorneys for defendant
Monsanto Company

FROM: NAME & LOCATION: C. L. Bradford - G. O.

March 1, 1972

cc H. S. Bergen - B2SL
W. R. Corey - B2SL
J. H. Davidson
T. L. Gossage - B2SL
R. E. Hatton
N. T. Johnson
W. Papageorge
P. S. Park - C1NA
W. R. Richard - T3A
J. R. Savage - B2SL

SUBJECT

PYDRAUL TRANSITION PROGRAM

REFERENCE

TO :

D. H. Bolliger - F4WC
R. A. Dykstra - 1760
H. R. Ford - 1070
P. D. Fowlkes - W4A
J. S. Gillies - 1760
David Goodwillie - 5080
E. Greene - A2NA
J. N. Haggart - 5040
D. R. Hansen - 1800
J. F. Herber - T3G
R. M. Kountz - F4WA
E. D. Malone - 1760
P. J. A. Marsh - 5040
E. M. Potter - B2NK
D. B. Redington - 1700
E. L. Shimley - 1010
P. L. Slayton - 1650
M. J. Smid - 1760
J. Solarí - 1760
L. R. Stark - W4A
D. W. Stegen - 1460
D. O. Sutter - 1760
R. L. Wagner - 1760
P. G. Ziegenfuss - G5ED
R. C. Isham - G5ED

Attached is our latest Pydraul Transition Program.
From time to time we will update it and you will receive
a copy. If you see any conflicts or particular
difficulty in the program, please say so.

The European Transition Program is attached. If David
Goodwillie and Ned Greene would please put together
something similar and forward a copy to me, I will
publish a worldwide transition program next edition.

C. L. Bradford
C. L. Bradford

/pep
Attachment

GoalActualActionTURBINOL

5/1 . Begin field trial alternate fluid at T. E.
6/30 T. E. transition to new fluid
Turbinol 30E/50E literature
Turbinol for bearings literature
Price sheets

PYDRAUL

3/13 Selector II informal price sheet
3/13 Selector II, 1st literature
3/15 Finalize reclamation program
3/15 - Aroclor 6037 replacement?
3/15 Application for approval at Bureau of
Mines 230C-312C
3/20 Finalize advertising program
3/20 Start delivering new fluids
4/1 Formal price sheet, Selector I & II
4/1 Start warehousing new fluids
5/1 No old fluid accepted for credit after
this date
5/1 Final Pydraul literature, Selector I & II
5/1 Consolidate PCT warehouse stocks
5/30 Sell last of PCT fluids
6/1 Bureau of Mines approval
6/30 Incinerate any remaining PCT fluids
3,4,5,6/1 Issue revised sales forecasts

U. S. Export

4/1 Write plan to withdraw all PCT fluid sales
after 6/30/72 and convert to new products

Pydraul Transition Program - Europe

1. Mining Applications

<u>Goal STL</u>	<u>Goal EUR</u>	<u>Actual</u>	<u>Action</u>
	2/19		Details of European pricing for mine fluids sent to St. Louis

2. Non-mining Applications

<u>Goal STL</u>	<u>Goal EUR</u>	<u>Actual</u>	<u>Action</u>
1/7	2/19		Finalize reclamation program, including conditions of sale.
-	3/15		Have NYCO reclamation unit proven.
1/30	3/31		All top Pydraul accounts visited.
2/7	3/6		Advise salesmen of FM approval for Selector I fluids.
-	2/19		Details of European pricing sent to St. Louis.
-	2/19		Salesmans' Guide to competitive phosphate esters.
-	2/19		Selector I informal price schedules.
-	2/19		Selector I temporary literature including 10-E and 29-E-LT.
-	2/29		Airfreight samples to Europe for selected OEM's and customers.
	4/15		Dispatch new fluids from St. Louis.
4/1	5/15		Start stocking new fluids.
4/15	5/15		Stop stocking warehouses with PCT fluids.
4/15	6/1		Start delivering new fluids.
5/1	5/15		No old fluids accepted back for credit after this date.

<u>Goal STL</u>	<u>Goal EUR</u>	<u>Actual</u>	<u>Action</u>
5/1	5/1		Stop manufacturing PCT fluids except as required.
5/30	6/1		Sell last of PCT fluids.
6/30	6/30		Incinerate any remaining PCT fluids.
4/1	4/1		Issue revised sales forecasts.
5/1	5/1		
6/1	6/1		

3. Local Blending Aspects

<u>Goal STL</u>	<u>Goal EUR</u>	<u>Actual</u>	<u>Action</u>
3/1			Obtain final formulation date and exact chemical description of components from St. Louis.
3/15			Agree valuation on NCP and N ₂ CP with Belgian customs.
3/15			Determine transport costs for raw materials in bulk from St. Louis to Antwerp.
3/22			Agree prices for S-140, 141, TPPA with Plasticizer Group
4/1			Prepare cost standards for Pydraul E series excl. 10-E.
			Prepare justification for local blending.

CERTIFICATE OF SERVICE

I, BRUCE A. FEATHERSTONE, one of the attorneys for defendants hereby certify that a copy of the DEFENDANT MONSANTO COMPANY'S SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES was served on the following counsel this 8th day of June, 1982 by first class mail.

SEE ATTACHED LIST


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Chicago, Illinois 60603

07-08-82

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

OFFICE OF U. S. ATTY.
GENERAL
APPROPRIATE SIGNATURE

[Signature]

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OUTBOARD MARINE CORPORATION,

Defendant, Third-Party
Plaintiff, and
Cross-Claim Defendant,

and

MONSANTO COMPANY,

Defendant, Third-Party
Defendant, and
Cross-Claim Plaintiff.

No. 78 C 1004

Judge Susan Getzendanner

RECEIVED

H. STANLEY
CLERK OF U.S. DISTRICT COURT

RESPONSE TO DEFENDANT MONSANTO COMPANY'S
SECOND SET OF REQUESTS FOR ADMISSION TO
PLAINTIFF UNITED STATES OF AMERICA

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, plaintiff United States of America hereby responds to defendant Monsanto Company's second set of requests for admission as follows:

REQUEST TO ADMIT:

1. Wayne Willford, an employee of the U. S. Fish & Wildlife Service, is familiar with the data showing levels of PCB residue in various species of Lake Michigan fish.

ANSWER:

Plaintiff admits only that Wayne Willford is an employee of the U.S. Fish & Wildlife Service and is familiar with some data showing levels of

some total PCB residues in some species and locations of Lake Michigan fish. The remainder of this request to admit is denied.

REQUEST TO ADMIT:

2. In his capacity as Chief of the Section of Physiology and Contaminant Chemistry of the U.S. Fish & Wildlife Service, Willford gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University on March 15-17, 1982, in which he discussed the results of efforts to monitor PCB residue in Lake Michigan fish.

ANSWER:

Plaintiff admits only that Wayne Willford gave a speech in his official capacity on March 15, 1982 at a PCB symposium at Michigan State University in which he discussed his laboratory's efforts to monitor total PCB residue in southeastern Lake Michigan fish. The remainder of request to admit #2 is denied.

REQUEST TO ADMIT:

3. In this speech Willford admitted there have been "significant declines" in the PCB levels in fish caught in southern Lake Michigan.

ANSWER:

Objection. This request to admit is vague. Plaintiff admits only that Willford stated that there have been "statistically significant declines" in total PCB levels in the species monitored in southeastern Lake Michigan since 1974. The remainder of request to admit is denied.

REQUEST TO ADMIT:

4. Willford admitted that recent data show that the percent decline by year in the PCB levels in fish caught in Lake Michigan is "getting more rapid" and "getting stronger" each year.

ANSWER: Denied.

REQUEST TO ADMIT:

5. Willford admitted that "it seems to be the consensus by all the states involved in monitoring programs that there have been significant declines in PCB levels in the fish that they looked at" from Lake Michigan.

ANSWER:

Admitted only to the extent that Willford stated that "it seems to be the consensus by all the states involved in monitoring programs that there have been significant declines in PCB levels in the fish that they looked at."

REQUEST TO ADMIT:

6. Based on his review of the data, it is Willford's opinion that the data for PCB levels in Lake Michigan fish show that there have been significant declines in the PCB levels in these fish since 1975.

ANSWER:

Admitted only to the extent that Willford stated that the data show that there have been declines in the total PCB residue levels in southeastern Lake Michigan fish since 1975 and that the levels of total PCB residues in fish throughout the Lake appear to be declining similarly based on the limited data available. Except as stated in this answer the remainder of request to admit #6 is denied.

*Willford's
Lake Michigan*

REQUEST TO ADMIT:

7. It is Willford's opinion that recent data for fish caught in Lake Michigan show that the percent "decline in the PCB levels is increasing and getting more rapid each year."

ANSWER: Denied.

REQUEST TO ADMIT:

8. It is Willford's opinion that the data collected by the states monitoring PCB levels in fish from Lake Michigan show significant declines in PCB levels in recent years.

ANSWER:

Plaintiff admits only that it is Willford's opinion that from the data collected by states monitoring PCB levels in fish from Lake Michigan, there appears to be a decline in total PCB residues in Lake Michigan fish since 1975. The remainder of request to admit #8 is denied.

REQUEST TO ADMIT:

9. The United States knows of no person who has suffered any immunological disorder caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

10. The United States knows of no person who has suffered any cancer caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

9-24

REQUEST TO ADMIT:

11. The United States knows of no human birth defects caused by PCB in any infant born to any person who has consumed fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

12. The United States knows of no person who has suffered any sickness caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

13. The United States knows of no person who has suffered any chloracne, dermatitis or skin disorder caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

14. The United States knows of no person who has suffered any neurological disorder caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

15. The United States knows of no person who has suffered any fatigue caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

16. The United States knows of no person who has suffered any reduction or impairment in his vital lung capacity caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

17. The United States knows of no person who has suffered any hypertension caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

18. The United States knows of no instance of mutagenicity caused by the PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

19. The United States knows of no instance of fetotoxicity caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

20. The United States knows of no instance of teratogenicity caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

21. The United States knows of no instance of abnormal blood pressure in any person caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

22. The United States knows of no person who has suffered any heart disease or blood disease caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

23. The United States knows of no person who has suffered any reduced physical growth caused by PCB exposure through the consumptions of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

24. The United States knows of no person who has suffered any mental or behavioral disorder caused by PCB exposure through the consumption of fish or drinking water from Lake Michigan.

ANSWER: Denied.

REQUEST TO ADMIT:

25. On March 15, 1982, Dr. C. Albert Kolbye, Jr. was employed by the United States Food and Drug Administration as the Associate Director of Sciences, Bureau of Foods, and in this position was familiar with toxicological research regarding PCBs.

ANSWER:

Plaintiff admits that Dr. Kolbye was employed in the above-described position on March 15, 1982 and admits that Dr. Kolbye was, on that date, familiar with some of the literature addressing toxicological research involving PCBs. The remainder of this request to admit is denied.

REQUEST TO ADMIT:

26. On March 15, 1982, Dr. Kolbye, in his capacity at FDA, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University.

ANSWER: Admitted.

REQUEST TO ADMIT:

27. In his speech, Dr. Kolbye admitted that the results of Dr. Allen's research into the effects of PCBs on the infant rhesus monkey are not relevant to humans.

ANSWER: Denied.

REQUEST TO ADMIT:

28. In his speech at Michigan State, Dr. Kolbye admitted that PCBs should not be considered mutagens.

ANSWER: Denied.

REQUEST TO ADMIT:

29. It is Dr. Kolbye's opinion that the results of Dr. Allen's experiments on the effect of PCB exposure through the maternal rhesus monkey on the fetus or infant rhesus monkey are not relevant to humans.

ANSWER: Denied.

REQUEST TO ADMIT:

30. It is Dr. Kolbye's opinion that the interpretation of the results of Dr. Allen's rhesus monkey research is confused because Dr. Allen fed the mother monkeys amounts of PCB that caused the mother monkeys to be sick.

ANSWER: Denied.

REQUEST TO ADMIT:

31. In Dr. Kolbye's opinion, it is not clear which results in the infant rhesus monkeys can be attributed to PCB.

ANSWER: Denied.

REQUEST TO ADMIT:

32. It is Dr. Kolbye's opinion that PCBs should not be considered mutagens.

ANSWER: Denied.

REQUEST TO ADMIT:

33. Monsanto's various reformulations of Pydraul in 1970-72, including Pydraul A-200A, A-200B, and 50E, which were sold to Johnson Motors, were not required by USEPA or any other agency of the United States.

ANSWER:

Objection; irrelevant, vague, misleading. Further, this request to admit is denied.

REQUEST TO ADMIT:

34. Monsanto's decision to take PCBs out of its Pydraul fluids was not required by USEPA or any other agency of the United States.

ANSWER:

Objection; irrelevant, vague, misleading. Further, this request to admit is denied.

REQUEST TO ADMIT:

35. Monsanto's decision to restrict the sale of PCBs to dielectric fluids after 1972 was not required by USEPA or any other agency of the United States.

ANSWER:

Objection; irrelevant, vague, misleading. Further, this request to admit is denied.

REQUEST TO ADMIT:

36. The timetable set forth in Exhibit A (attached hereto) for the transition to phosphate ester Pydraul was not required by USEPA or any other agency of the United States.

ANSWER:

Objection; irrelevant, vague, misleading. Further this request to admit, including but not limited to the authenticity, admissibility, or accuracy of Exhibit A, is denied.

REQUEST TO ADMIT:

37. Neither USEPA nor any other agency of the United States had any involvement in setting up the transition timetable in Exhibit A.

ANSWER:

Objection; irrelevant, vague, misleading. Further this request to admit, including but not limited to the authenticity, admissibility, or accuracy of Exhibit A, is denied.

REQUEST TO ADMIT:

38. Karl Bremer, an employee of Region V, USEPA, attended the International Symposium on PCBs in the Great Lakes on March 15-17, 1982 in East Lansing, Michigan in his capacity as an employee Region V, USEPA.

ANSWER: Admitted.

REQUEST TO ADMIT:

39. On March 17, Bremer gave a speech at the Symposium in his capacity at Region V, USEPA.

ANSWER:

Plaintiff admits only that Karl Bremer gave a speech at the PCB symposium at Michigan State University on March 17, 1982 as an employee of EPA. The remainder of this confusing and poorly drafted request to admit is denied.

REQUEST TO ADMIT:

40. In his speech Bremer admitted that in the early 1970s Monsanto "voluntarily" restricted PCBs to dielectric fluids.

ANSWER:

Objection; irrelevant, misleading, inaccurate. Further, this request to admit is denied.

REQUEST TO ADMIT:

41. At the Symposium Bremer further admitted that Monsanto's decision to restrict the sale of PCBs led to an "industry awareness" of PCBs.

ANSWER:

Objection, irrelevant, misleading, inaccurate. Further, this request to admit is denied.

REQUEST TO ADMIT:

42. It is Bremer's opinion that in the early 1970s, Monsanto voluntarily restricted PCBs to dielectric fluids.

ANSWER:

Objection; irrelevant, misleading, inaccurate. Further, this request to admit is denied.

REQUEST TO ADMIT:

43. It is Bremer's opinion that Monsanto's decision to restrict the sale of PCBs to dielectric fluids led to an industry awareness of PCBs.

ANSWER:

Objection; irrelevant, misleading, inaccurate. Further, this request to admit is denied.

REQUEST TO ADMIT:

44. The air in and near Waukegan Harbor and the property of Outboard Marine Corporation poses no significant human health problem attributable to PCBs.

ANSWER: Denied.

REQUEST TO ADMIT:

45. The drinking water in Waukegan, Illinois poses no significant human health problem attributable to PCBs.

ANSWER:

Objection; vague, misleading. Further, this request to admit is denied.

REQUEST TO ADMIT:

46. Dr. Harold E.B. Humphrey, an employee of the Michigan Department of Public Health, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University on March 15-17, 1982.

ANSWER: Admitted.

REQUEST TO ADMIT:

47. In his speech, Dr. Humphrey admitted that he has done a follow-up study of persons who he studied and reported on in his 1976 contract report to FDA entitled "Evaluation of Changes of the Level of Polychlorinated Biphenyls (PCB) in Human Tissue."

ANSWER: Denied. The follow-up study is still in progress.

REQUEST TO ADMIT:

48. The persons who were reexamined by Dr. Humphrey and his group were classified as heavy fisheaters. These persons included those who consume relatively large quantities of Lake Michigan fish.

ANSWER: Denied. See answer to request to admit 47 above.

REQUEST TO ADMIT:

49. Dr. Humphrey admitted that his reexamination of these persons did not show any correlation between any of the health problems studied and the amount of fish consumption from Lake Michigan or PCB exposure through fish consumed from Lake Michigan.

ANSWER: Denied. See answer to request to admit 47 above.

REQUEST TO ADMIT:

Dr. Humphrey's reexamination of persons who consume fish from Lake Michigan has not shown any correlation between any health problem studied and any amount of fish consumption from Lake Michigan or PCB exposure through fish consumed from Lake Michigan.

ANSWER: Denied. See answer to request to admit 47 above.

REQUEST TO ADMIT:

51. In his reexamination of persons who eat large quantities of fish from Lake Michigan, Dr. Humphrey studied the same health problems or effects listed in his earlier study for the FDA.

ANSWER: Denied. See answer to request to admit 47 above.

REQUEST TO ADMIT:

52. The results of Dr. Humphrey's reexamination mean that again he was unable to find that heavy consumption of Lake Michigan fish caused any of the health problems that were studied.

ANSWER: Denied. See answer to request to admit 47 above.

Respectfully submitted,

DAN K. WEBB
United States Attorney

BY: 

JAMES T. HYNES
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604

BY: 

ELIZABETH STEIN
Attorney, Department of Justice
Environmental Defense Section
LAND & NATURAL RESOURCES DIVISION
Washington, D.C. 20530

08-16-82

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OUTBOARD MARINE CORPORATION,

Defendant, Third-Party
Plaintiff, and Cross-
Claim Defendant,

and

MONSANTO COMPANY,

Defendant, Third-Party
Defendant, and Cross-
Claim Plaintiff.

NO. 78 C 1004

RECEIVED

AUG 16 1982

OFFICE OF REGIONAL COUNSEL
EPA - REGION V

Honorable Susan Getzendanner

NOTICE OF FILING

To: All counsel

PLEASE TAKE NOTICE that we have this dated filed
DEFENDANT MONSANTO COMPANY'S FIRST AMENDMENT TO ITS SECOND
SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES,
a copy of which is attached hereto and served upon
you

This 13th day of August, 1982.

Bruce A. Featherstone
Fred H. Bartlit, Jr.
James H. Schink
Bruce A. Featherstone
KIRKLAND & ELLIS
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-3260

Attorneys for MONSANTO COMPANY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
	)	NO. 78 C 1004
vs.)	
)	
OUTBOARD MARINE CORPORATION,)	
)	
Defendant, Third-Party)	
Plaintiff, and Cross-)	
Claim Defendant,)	
)	
and)	
	)	Honorable Susan Getzendanner
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and Cross-)	
Claim Plaintiff.)	

DEFENDANT MONSANTO COMPANY'S FIRST AMENDMENT
TO ITS SECOND SET OF REQUESTS FOR ADMISSION
TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure, defendant Monsanto Company requests that plaintiff United States make the following admissions:

REQUESTS TO ADMIT

1. Region V of the United States Environmental Protection Agency ("USEPA Region V") is headquartered in Chicago, Illinois and covers the States bordering on Lake Michigan.

2. At this time USEPA Region V knows of no person who has suffered any immunological disorder caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

3. At this time USEPA Region V knows of no person who has suffered any cancer caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

4. At this time USEPA Region V knows of no human birth defects caused by PCB in any infant born to any person who has consumed fish or drinking water from Waukegan Harbor or Lake Michigan.

5. At this time USEPA Region V knows of no person who has suffered any sickness caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

6. At this time USEPA Region V knows of no person who has suffered any chloracne, dermatitis or skin disorder caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

7. At this time USEPA Region V knows of no person who has suffered any neurological disorder caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

8. At this time USEPA Region V knows of no person who has suffered any fatigue caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

9. At this time USEPA Region V knows of no person who has suffered any reduction or impairment in his vital lung capacity caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

10. At this time USEPA Region V knows of no person who has suffered any hypertension caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

11. At this time USEPA Region V knows of no instance of mutagenicity in any human being caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

12. At this time USEPA Region V knows of no instance of fetotoxicity in any human being caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

13. At this time USEPA Region V knows of no instance of teratogenicity in any human being caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

14. At this time USEPA Region V knows of no instance of abnormal blood pressure in any person caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

15. At this time USEPA Region V knows of no person who has suffered any heart disease or blood disease caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

16. At this time USEPA Region V knows of no person who has suffered any reduced or abnormal physical growth caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

17. At this time USEPA Region V knows of no person who has suffered any mental or behavioral disorder caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

18. On March 15, 1982, Dr. C. Albert Kolbye, Jr. was employed by the United States Food and Drug Administration as the Associate Director of Sciences, Bureau of Foods, and in this position was generally familiar with toxicological research regarding PCBs.

19. On March 15, 1982, Dr. Kolbye, in his capacity at FDA, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University.

20. In his speech, Dr. Kolbye admitted that the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys are not relevant to humans due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

21. In his speech Dr. Kolbye admitted that the interpretation of the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys is confused due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

22. In Dr. Kolbye's opinion, it is not clear which results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys can be attributed to PCB due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

23. Monsanto's various reformulations of Pydraul in 1970-72, including Pydraul A-200A, A-200B, and 50E, which were sold to Johnson Motors, were not required by any statute, regulation or order of USEPA or any other agency of the United States.

24. Monsanto's decision to take PCBs out of its Pydraul fluids was not required by any statute, regulation or order of USEPA or any other agency of the United States.

25. Monsanto's decision in 1972 to restrict the sale of PCBs to dielectric fluids was not required by any statute, regulation or order of USEPA or any other agency of the United States.

26. The timetable set forth on page 10724 of Exhibit A (attached hereto) for the transition to phosphate ester Pydraul (including Pydraul 50E) was not required by any statute, regulation or order of USEPA or any other agency of the United States.

27. Karl Bremer, an employee of Region V, USEPA, attended the International Symposium on PCBs in the Great Lakes on March 15-17, 1982 in East Lansing, Michigan in his capacity as an employee of Region V, USEPA.

28. In his capacity at Region V, USEPA, Bremer gave a speech at the Symposium.

29. In his speech Bremer admitted that in the early 1970s Monsanto "voluntarily" restricted PCBs to dielectric fluids.

30. At the Symposium Bremer further admitted that Monsanto's decision to restrict the sale of PCBs led to an "industrial awareness" of PCBs.

31. The air in and near Waukegan Harbor, the North Ditch, and the property of Outboard Marine Corporation poses no significant human health problem attributable to the PCBs there.

32. The drinking water in Waukegan, Illinois poses no significant human health problem attributable to PCBs in Waukegan Harbor, in the North Ditch, or on the property of OMC.

DATED: August 13, 1982

Bruce A. Featherstone

Fred H. Bartlit, Jr.

James H. Schink

Bruce A. Featherstone

KIRKLAND & ELLIS

200 East Randolph Drive

Chicago, Illinois 60601

(312) 861-3260

Attorneys for MONSANTO COMPANY

CERTIFICATE OF SERVICE

BRUCE A. FEATHERSTONE hereby certifies that on August 13, 1982, he caused a copy of DEFENDANT MONSANTO COMPANY'S FIRST AMENDMENT TO ITS SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES to be mailed, first class, postage prepaid, to

Sebastian Patti, Esq.
Water Enforcement Division
United States Environmental
Protection Agency
230 South Dearborn Street
Chicago, Illinois 60601

James T. Hynes, Esq.
Assistant U.S. Attorney
219 South Dearborn Street
Chicago, Illinois 60604

John Van Vranken, Esq.
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Chicago, Illinois 60601

Richard J. Kissell, Esq.
Martin, Craig, Chester
& Sonnenschein
115 South LaSalle Street
Chicago, Illinois 60603

Further, BRUCE A. FEATHERSTONE, hereby certifies that on August 13, 1982, he personally hand delivered a copy of DEFENDANT MONSANTO COMPANY'S FIRST AMENDMENT TO ITS SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES to

Roseann Oliver, Esq.
Phelan, Pope & John, Ltd.
180 North Wacker Drive
Chicago, Illinois 60606

Elizabeth Stein, Esq.
United States Dept. of Justice
c/o Phelan, Pope & John, Ltd.
180 N. Wacker Drive
Chicago, Illinois 60606


Attorney for MONSANTO COMPANY

100-1010

EXHIBIT A

FROM: NAME & LOCATION: C. L. Bradford - G. O.

March 1, 1972

cc H. S. Bergen - B2SL
W. R. Corey - B2SL
J. H. Davidson
T. L. Gossage - B2SL
R. E. Hatton
N. T. Johnson
W. Papageorge
P. S. Park - C1NA
W. R. Richard - T3A
J. R. Savage - B2SL

SUBJECT

PYDRAUL TRANSITION PROGRAM

REFERENCE

TO :

D. H. Bolliger - F4WC
R. A. Dykstra - 1760
H. R. Ford - 1070
P. D. Fowlkes - W4A
J. S. Gillies - 1760
David Goodwillie - 5080
E. Greene - A2NA
J. N. Haggart - 5040
D. R. Hansen - 1800
J. F. Herber - T3C
R. M. Kountz - F4WA
E. D. Malone - 1760
P. J. A. Marsh - 5040
E. M. Potter - B2NK
D. B. Redington - 1760
E. L. Shimley - 1010
P. L. Slayton - 1650
M. J. Smid - 1760
J. Solarí - 1760
L. R. Stark - W4A
D. W. Stegen - 1460
D. O. Sutter - 1760
R. L. Wagner - 1760
P. G. Ziegenfuss - G5ED
R. C. Isham - G5ED

Attached is our latest Pydraul Transition Program. From time to time we will update it and you will receive a copy. If you see any conflicts or particular difficulty in the program, please say so.

The European Transition Program is attached. If David Goodwillie and Ned Greene would please put together something similar and forward a copy to me, I will publish a worldwide transition program next edition.

C. L. Bradford
C. L. Bradford

/pep
Attachment

10723

GoalActualActionTURBINOL

5/1	Begin field trial alternate fluid at T. E.
6/30	T. E. transition to new fluid Turbinol 30E/50E literature Turbinol for bearings literature Price sheets

PYDRAUL

3/13	Selector II informal price sheet
3/13	Selector II, 1st literature
3/15	Finalize reclamation program
3/15	- Aroclor 6037 replacement?
3/15	Application for approval at Bureau of Mines 230C-312C
3/20	Finalize advertising program
3/20	Start delivering new fluids
4/1	Formal price sheet, Selector I & II
4/1	Start warehousing new fluids
5/1	No old fluid accepted for credit after this date
5/1	Final Pydraul literature, Selector I & II
5/1	Consolidate PCT warehouse stocks
5/30	Sell last of PCT fluids
6/1	Bureau of Mines approval
6/30	Incinerate any remaining PCT fluids
3,4,5,6/1	Issue revised sales forecasts

U. S. Export

4/1	Write plan to withdraw all PCT fluid sales after 6/30/72 and convert to new products
-----	---

Pydraul Transition Program - Europe

1. Mining Applications

<u>Goal STL</u>	<u>Goal EUR</u>	<u>Actual</u>	<u>Action</u>
	2/19		Details of European pricing for mine fluids sent to St. Louis

2. Non-mining Applications

<u>Goal STL</u>	<u>Goal EUR</u>	<u>Actual</u>	<u>Action</u>
1/7	2/19		Finalize reclamation program, including conditions of sale.
-	3/15		Have NYCO reclamation unit proven.
1/30	3/31		All top Pydraul accounts visited.
2/7	3/6		Advise salesmen of FM approval for Selector I fluids.
-	2/19		Details of European pricing sent to St. Louis.
-	2/19		Salesmans' Guide to competitive phosphate esters.
-	2/19		Selector I informal price schedules.
-	2/19		Selector I temporary literature including 10-E and 29-E-LT.
-	2/29		Airfreight samples to Europe for selected OEM's and customers.
	4/15		Dispatch new fluids from St. Louis.
4/1	5/15		Start stocking new fluids.
4/15	5/15		Stop stocking warehouses with PCT fluids.
4/15	6/1		Start delivering new fluids.
5/1	5/15		No old fluids accepted back for credit after this date.

<u>Goal STL</u>	<u>Goal EUR</u>	<u>Actual</u>	<u>Action</u>
5/1	5/1		Stop manufacturing PCT fluids except as required.
5/30	6/1		Sell last of PCT fluids.
6/30	6/30		Incinerate any remaining PCT fluids.
4/1	4/1		Issue revised sales forecasts.
5/1	5/1		
6/1	6/1		

3. Local Blending Aspects

<u>Goal STL</u>	<u>Goal EUR</u>	<u>Actual</u>	<u>Action</u>
3/1			Obtain final formulation date and exact chemical description of components from St. Louis.
3/15			Agree valuation on NCP and N ₂ CP with Belgian customs.
3/15			Determine transport costs for raw materials in bulk from St. Louis to Antwerp.
3/22			Agree prices for S-140, 141, TPPA with Plasticizer Group
4/1			Prepare cost standards for Pydraul E series excl. 10-E.
			Prepare justification for local blending.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.	)	No. 78 C 1004
)	
OUTBOARD MARINE CORPORATION,	)	Judge Susan Getzendanner
)	
Defendant, Third-Party)	
Plaintiff, and)	
Cross-Claim Defendant,)	
)	
and)	
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and)	
Cross-Claim Plaintiff.)	

NOTICE OF FILING

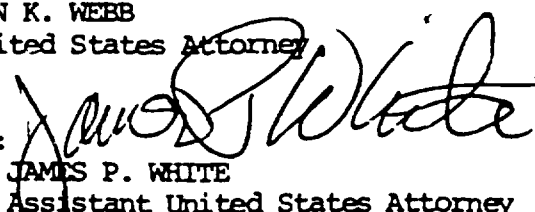
TO: SEE ATTACHED LIST

PLEASE TAKE NOTICE that on Wednesday, September 15, 1982, the undersigned filed with the Clerk of this Court, PLAINTIFF'S RESPONSE TO DEFENDANT MONSANTO COMPANY'S FIRST AMENDMENT TO ITS SECOND SET REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES, service of which is being made upon you.

Respectfully submitted,

DAN K. WEBB
United States Attorney

BY:


JAMES P. WHITE
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-8788

JPW:ejd
09/15/82

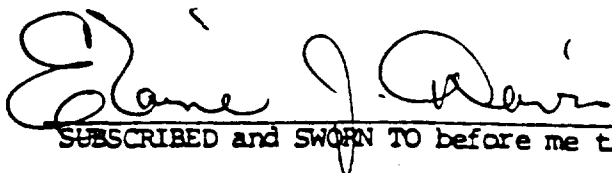
AFFIDAVIT OF MAILING

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

Elaine J. Davis, being first duly sworn on oath
deposes and says that ~~he~~/she is employed in the Office of the United States
Attorney for the Northern District of Illinois; that on the 15th day of
SEPTEMBER , 1982, ~~he~~/she placed a copy of the NOTICE OF FILING AND
PLAINTIFF'S RESPONSE TO DEFENDANT MONSANTO COMPANY'S FIRST AMENDMENT TO ITS
SECOND SET REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES

in a Government franked envelope addressed to each of the following named
individuals, and caused each envelope to be deposited in the United States
mail chute located in the Everett McKinley Dirksen Building, Chicago,
Illinois, on said date at the hour of about 5:00 p.m.

SEE ATTACHED LIST


SUBSCRIBED and SWORN TO before me this
day of , 1982.

NOTARY PUBLIC

My Commission Expires: _____

NOTICE TO:

Roseann Oliver, Esquire
Richard Phelan, Esquire
PHELAN, POPE & JOHN, LTD.
180 North Wacker Drive
Chicago, Illinois 60606

James H. Schink, Esquire
Bruce A. Featherstone, Esquire
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Richard J. Kissel, Esquire
MARTIN, CRAIG, CHESTER
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115 South LaSalle Street
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John Van Vranken, Esquire
Assistant Attorney General
ENVIRONMENTAL CONTROL DIVISION
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M. Kaye Jacobs, Esquire
Water Enforcement Division
U.S. ENVIRONMENTAL PROTECTION AGENCY
230 South Dearborn Street
Chicago, Illinois 60604

Elizabeth Stein, Esquire
Pollution Control Section
LAND & NATURAL RESOURCES DIVISION
Department of Justice
Washington, D.C. 20530

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.	)	No. 78 C 1004
)	
OUTBOARD MARINE CORPORATION,	)	Judge Susan Getzendanner
)	
Defendant, Third-Party)	
Plaintiff, and)	
Cross-Claim Defendant,)	
)	
and)	
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and)	
Cross-Claim Plaintiff.)	

PLAINTIFF'S RESPONSE TO DEFENDANT MONSANTO COMPANY'S
FIRST AMENDMENT TO ITS SECOND SET REQUESTS
FOR ADMISSION TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure,
plaintiff United States of America response to defendant Monsanto Company
requests to admit as follows:

REQUEST TO ADMIT

1. Region V of the United States Environmental Protection Agency
("USEPA Region V") is headquartered in Chicago, Illinois and covers the
States bordering on Lake Michigan.

RESPONSE: Plaintiff admits Request No. 1.

2. At this time USEPA Region V knows of no person who has suffered any immunological disorder caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 2.

3. At this time USEPA Region V knows of no person who has suffered any cancer caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 3.

4. At this time USEPA Region V knows of no human birth defects caused by PCB in any infant born to any person who has consumed fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 4.

5. At this time USEPA Region V knows of no person who has suffered any sickness caused by PCB exposure through the consumption of fish or drinking water water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 5.

6. At this time USEPA Region V knows of no person who has suffered any chloracne, dermatitis or skin disorder caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 6.

7. At this time USEPA Region V knows of no person who has suffered any neurological disorder caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 7.

8. At this time USEPA Region V knows of no person who has suffered any fatigue cause by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 8.

9. At this time USEPA Region V knows of no person who has suffered any reduction or impairment in his vital lung capacity caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 9.

10. At this time USEPA Region V knows of no person who has suffered any hypertension caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 10.

11. At this time USEPA Region V knows of no instance of mutagenicity in any human being caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 11.

12. At this time USEPA Region V knows of no instance of fetotoxicity in any human being caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No 12.

13. At this time USEPA Region V knows of no instance of teratogenicity in any human being caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 13.

14. At this time USEPA Region V knows of no instance of abnormal blood pressure in any person caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 14.

15. At this time USEPA Region V knows of no person who has suffered any heart disease or blood disease caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 15.

16. At this time USEPA Region V knows of no person who has suffered any reduced or abnormal physical growth caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 16.

17. At this time USEPA Region V knows of no person who has suffered any mental or behavioral disorder caused by PCB exposure through the consumption of fish or drinking water from Waukegan Harbor or Lake Michigan.

RESPONSE: Plaintiff admits Request No. 17.

18. On March 15, 1982, Dr. C. Albert Kolbye, Jr. was employed by the United States Food and Drug Administration as the Associate Director of Sciences, Bureau of Foods, and in this position was generally familiar with toxicological research regarding PCBs.

RESPONSE: Plaintiff admits Request No. 18.

19. On March 15, 1982, Dr. Kolbye, in his capacity at FDA, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University.

RESPONSE: Plaintiff admits Request No. 19.

20. In his speech, Dr. Kolbye admitted that the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys are not relevant to humans due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

RESPONSE: Plaintiff admits Request No. 20 to the extent that, in his speech, Dr. Kolbye stated that the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys are not fully relevant to humans due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

21. In his speech Dr. Kolbye admitted that the interpretation of the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys is confused due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

RESPONSE: Plaintiff admits Request No. 21 to the extent that it is Dr. Kolbye's opinion that the interpretation of results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys is confused due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

22. In Dr. Kolbye's opinion, it is not clear which results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys can be attributed to PCB due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

RESPONSE: Plaintiff admits Request No. 22.

23. Monsanto's various reformulations of Pydraul in 1970-72, including Pydraul A-200A, A-200B, and 50E, which were sold to Johnson Motors, were not required by any statute, regulation or order of USEPA or any other agency of the United States.

RESPONSE: Plaintiff admits Request No. 23.

24. Monsanto's decision to take PCBs out of its Pydraul fluid was not required by any statute, regulation or order of USEPA or any other agency of the United States.

RESPONSE: Plaintiff admits Request No. 24.

25. Monsanto's decision in 1972 to restrict the sale of PCBs to dielectric fluids was not required by any statute, regulation or order of USEPA or any other agency of the United States.

RESPONSE: Plaintiff admits Request No. 25.

26. The timetable set forth on page 10724 of Exhibit A (attached hereto) for the transition to phosphate ester Pydraul (including Pydraul 50E) was not required by any statute, regulation or order of USEPA or any other agency of the United States.

RESPONSE: Plaintiff admits Request No. 26.

27. Karl Bremer, an employee of Region V, USEPA, attended the International Symposium on PCBs in the Great Lakes on March 15-17, 1982 in East Lansing, Michigan in his capacity as an employee of Region V, USEPA.

RESPONSE: Plaintiff admits Request No. 27.

28. In his capacity at Region V, USEPA, Bremer gave a speech at the Symposium.

RESPONSE: Plaintiff admits Request No. 28.

29. In his speech Bremer admitted that in the early 1970s Monsanto "voluntarily" restricted PCBs to dielectric fluids.

RESPONSE: Plaintiff admits Request No. 29 to the extent that, in his speech Bremer stated that in the early 1970s Monsanto "voluntarily" restricted PCBs to dielectric fluids.

30. At the Symposium Bremer further admitted that Monsanto's decision to restrict the sale of PCBs led to an "industrial awareness" of PCBs.

RESPONSE: Plaintiff admits Request No. 30 to the extent that, at the Symposium Bremer further stated that Monsanto's decision to restrict the sale of PCBs led to an "industrial awareness" of PCBs.

31. The air in and near Waukegan Harbor, the North Ditch, and the property of Outboard Marine Corporation poses no significant human health problem attributable to the PCBs there.

RESPONSE: Plaintiff admits Request No. 31.


32. The drinking water in Waukegan, Illinois poses no significant human health problem attributable to PCBs in Waukegan Harbor, in the North Ditch, or on the property of OMC.

RESPONSE: Plaintiff admits Request No. 32.

Respectfully submitted,

DAN K. WEBB
United States Attorney

BY:


JAMES P. WHITE
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-8788

JFW:ejd
09/15/82

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OUTBOARD MARINE CORPORATION,

Defendant, Third-Party
Plaintiff, and Cross-
Claim Defendant,

and

MONSANTO COMPANY,

Defendant, Third-Party
Defendant, and Cross-
Claim Plaintiff.

NO. 78 C 1004

Honorable Susan Getzendanner

NOTICE OF FILING

TO: All counsel on attached
Service List

PLEASE TAKE NOTICE that we have this date filed
DEFENDANT MONSANTO COMPANY'S SECOND AMENDMENT TO ITS SECOND
SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES, a
true copy of which is attached hereto and served upon you.

This 30th day of August, 1982.

Bruce A. Featherstone
Fred H. Bartlit, Jr.
James H. Schink
Bruce A. Featherstone
KIRKLAND & ELLIS
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-3260

Attorneys for Monsanto Company

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
	)	NO. 78 C 1004
vs.)	
)	
OUTBOARD MARINE CORPORATION,)	
)	
Defendant, Third-Party)	
Plaintiff, and Cross-)	
Claim Defendant,)	
)	
and)	
	)	Honorable Susan Getzendanner
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and Cross-)	
Claim Plaintiff.)	

DEFENDANT MONSANTO COMPANY'S SECOND AMENDMENT
TO ITS SECOND SET OF REQUESTS FOR ADMISSION
TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure, defendant Monsanto Company requests that plaintiff United States make the following admissions:

REQUESTS TO ADMIT

1. On March 15, 1982, Dr. C. Albert Kolbye, Jr. was employed by the United States Food and Drug Administration as the Associate Director of Sciences, Bureau of Foods, and in this position was generally familiar with toxicological research regarding PCBs.

2. On March 15, 1982, Dr. Kolbye, in his capacity at FDA, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University.

3. In his speech Dr. Kolbye admitted that:
"The reproductive work that was done by Jim Allen using Arochlor 1248 on rhesus monkeys that caused such a tremendous national uproar, where people were politicking to ban all breast feeding of babies, was something that I felt was inappropriate and not fully relevant to the human situation."

4. On March 15, 1982, it was Dr. Kolbye's opinion that the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys are not relevant to humans due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

5. It is Dr. Kolbye's opinion that the interpretation of the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys is confused due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

6. In his speech Dr. Kolbye admitted: "It will take additional research using different monkeys using a mixture of 1254 and 1260 to get a better handle on what's really happening with pregnant monkeys."

7. In his speech Dr. Kolbye stated: "I would ask any of you who are dealing with monkeys, or are considering data from non-human primates, to remember that there is a very substantial difference between the rhesus monkey and certain other monkeys like the chimp; some of these differences deal with the fundamental sensitivity and feedback of the pituitary circuit and estrogen, estradiol, etc."

8. In Dr. Kolbye's opinion, the dosage of PCB that Dr. Allen gave the maternal monkeys was "inappropriate." In his speech Dr. Kolbye admitted: "If you want to find out what's really happening with the fetus, expose the mother monkey but don't intoxicate the mother monkey; don't poison her, because if you poison any pregnant animal, you're going to have problems with the offspring."

9. In his speech Dr. Kolbye admitted: "For low exposures, and for infrequent or inconsistent exposures to PCBs, I don't think that there is any need to get excited or to have any fear."

DATED: August 30, 1982

Bruce A. Featherstone
Fred H. Bartlit, Jr.
James H. Schink
Bruce A. Featherstone
KIRKLAND & ELLIS
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-3260

Attorneys for Monsanto Company

CERTIFICATE OF SERVICE

BRUCE A. FEATHERSTONE hereby certifies that on August 30, 1982, he caused a copy of DEFENDANT MONSANTO COMPANY'S SECOND AMENDMENT TO ITS SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES to be hand delivered, by messenger, to all counsel on the attached Service List.

Bruce A. Featherstone
Attorney for Monsanto Company

SERVICE LIST

Roseann Oliver, Esq.
Phelan, Pope & John, Ltd.
180 North Wacker Drive, Suite 500
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Sebastian Patti, Esq.
Enforcement Division - Water
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230 South Dearborn Street
Chicago, Illinois 60604

James T. Hynes, Esq.
Assistant U.S. Attorney
219 South Dearborn Street
Chicago, Illinois 60604

John Van Vranken, Esq.
Assistant Attorney General
Environmental Control Division
188 West Randolph Street - Suite 2315
Chicago, Illinois 60601

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.	)	No. 78 C 1004
)	
OUTBOARD MARINE CORPORATION,	)	Judge Susan Getzendanner
)	
Defendant, Third-Party)	
Plaintiff, and)	
Cross-Claim Defendant,)	
)	
and)	
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and)	
Cross-Claim Plaintiff.)	

NOTICE OF FILING

TO: See attached list.

PLEASE TAKE NOTICE that on Wednesday, September 29, 1982, the undersigned filed with the Clerk of this Court, PLAINTIFF'S RESPONSE TO DEFENDANT MONSANTO COMPANY'S SECOND AMENDMENT TO ITS SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES, service of which is being made upon you.

Respectfully submitted,

DAN K. WEBB
United States Attorney

BY:


JAMES T. BINES

Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-1996

JTH:ejd
9/29/82

AFFIDAVIT OF MAILING

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

ELAINE J. DAVIS, being first duly sworn on oath
deposes and says that ~~he~~/she is employed in the Office of the United States
Attorney for the Northern District of Illinois; that on the 29th day of
September , 1982, ~~he~~/she placed a copy of

PLAINTIFF'S RESPONSE TO DEFENDANT MONSANTO
COMPANY'S SECOND AMENDMENT TO ITS SECOND SET
OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED
STATES

in a Government franked envelope addressed to each of the following named
individuals, and caused each envelope to be deposited in the United States
mail chute located in the Everett McKinley Dirksen Building, Chicago,
Illinois, on said date at the hour of about 5:00 p.m.

SEE ATTACHED LIST

Elaine J. Davis
SUBSCRIBED and SWORN TO before me this
29th day of September, 1982.
Lenora E. Nipe
NOTARY PUBLIC

My Commission Expires: Mar 19 1985

NOTICE TO:

Roseann Oliver, Esquire
Richard Phelan, Esquire
PHELAN, POPE & JOHN, LTD.
180 North Wacker Drive
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Bruce A. Featherstone, Esquire
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& SONNENSCHNEIN
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Assistant Attorney General
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Sebastian T. Patti, Esquire
Jerrold Frumm, Esquire
Water Enforcement Division
U.S. ENVIRONMENTAL PROTECTION AGENCY
230 South Dearborn Street
Chicago, Illinois 60604

Elizabeth Stein, Esquire
Pollution Control Section
LAND & NATURAL RESOURCES DIVISION
Department of Justice
Washington, D.C. 20530

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.	)	No. 78 C 1004
)	
OUTBOARD MARINE CORPORATION,	)	Judge Susan Getzendanner
)	
Defendant, Third-Party)	
Plaintiff, and)	
Cross-Claim Defendant,)	
)	
and)	
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and)	
Cross-Claim Plaintiff.)	

PLAINTIFF'S RESPONSE TO DEFENDANT MONSANTO COMPANY'S
SECOND AMENDMENT TO ITS SECOND SET OF REQUESTS FOR
ADMISSION TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure,
plaintiff United States of America responds to defendant Monsanto Company's
requests to admit as follows:

REQUEST TO ADMIT

1. On March 15, 1982, Dr. C. Albert Kolbye, Jr. was employed by the
United States Food and Drug Administration as the Associate Director of
Sciences, Bureau of Foods, and in this position was generally familiar with
toxicological research regarding PCBs.

RESPONSE: Plaintiff admits Request No. 1.

2. On March 15, 1982, Dr. Kolbye, in his capacity at FDA, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University.

RESPONSE: Plaintiff admits Request No. 2.

3. In his speech Dr. Kolbye admitted that: "The reproductive work that was done by Jim Allen using Arochlor 1248 on rhesus monkeys that caused such a tremendous national uproar, where people were politicking to ban all breast feeding of babies, was something that I felt was inappropriate and not fully relevant to the human situation."

RESPONSE: Plaintiff admits Request No. 3 to the extent that, in his speech Dr. Kolbye stated that: "The reproductive work that was done by Jim Allen using Arochlor 1248 on rhesus monkeys that caused such a tremendous national uproar, where people were politicking to ban all breast feeding of babies, was something that I felt was inappropriate and not fully relevant to the human situation."

4. On March 15, 1982, it was Dr. Kolbye's opinion that the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys are not relevant to humans due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

RESPONSE: Plaintiff admits Request No. 4 to the extent that, on March 15, 1982, it was Dr. Kolbye's opinion that the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys are not fully relevant to humans due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

5. It is Dr. Kolbye's opinion that the interpretation of the results of Dr. Allen's experiments on the effect of PCB exposure on infant rhesus monkeys is confused due to the type of PCB used in the experiments and the inappropriate dosage of PCBs given to the maternal rhesus monkeys.

RESPONSE: Plaintiff admits Request No. 5.

6. In his speech Dr. Kolbye admitted: "It will take additional research using different monkeys using a mixture of 1254 and 1260 to get a better handle on what's really happening with pregnant monkeys."

RESPONSE: Plaintiff admits Request No. 6 to the extent that, in his speech Dr. Kolbye stated: "It will take additional research using different monkeys using a mixture of 1254 and 1260 to get a better handle on what's really happening with pregnant monkeys."

7. In his speech Dr. Kolbye stated: "I would ask any of you who are dealing with monkeys, or are considering data from non-human primates, to remember that there is a very substantial difference between the rhesus monkey and certain other monkeys like the chimp; some of these differences deal with the fundamental sensitivity and feed back of the pituitary circuit and estrogen, estradiol, etc."

RESPONSE: Plaintiff admits Request No. 7.

8. In Dr. Kolbye's opinion, the dosage of PCB that Dr. Allen gave the maternal monkeys was "inappropriate."

RESPONSE: Plaintiff admits Request No. 8.

9. In his speech Dr. Kolbye admitted: "If you want to find out what's really happening with the fetus, expose the mother monkey but don't intoxicate the mother monkey; don't poison her, because if you poison any pregnant animal, you're going to have problems with the offspring."

RESPONSE: Plaintiff admits Request No. 9 to the extent that, in his speech Dr. Kolbye stated: "If you want to find out what's really happening with the fetus, expose the mother monkey but don't intoxicate the mother monkey; don't poison her, because if you poison any pregnant animal, you're going to have problems with the offspring."

10. In his speech Dr. Kolbye admitted: "For low exposures, and for infrequent or inconsistent exposures to PCBs, I don't think that there is any need to get excited or to have any fear."

RESPONSE: Plaintiff admits Request No. 10 to the extent that, in his speech Dr. Kolbye stated: "For low exposures, and for infrequent or inconsistent exposures to PCBs, I don't think that there is any need to get excited or to have any fear."

Respectfully submitted,

DAN K. WEBB
United States Attorney

BY: 

JAMES T. HYNES
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-1996

JTH:ejd
9/29/82

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.	)	NO. 78 C 1004
)	
OUTBOARD MARINE CORPORATION,)	
)	
Defendant, Third-Party)	
Plaintiff, and Cross-)	
Claim Defendant,)	
)	
and	)	Honorable Susan Getzendanner
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and Cross-)	
Claim Plaintiff.)	

NOTICE OF FILING

TO: All counsel on attached
Service List

PLEASE TAKE NOTICE that we have this date filed
DEFENDANT MONSANTO COMPANY'S THIRD AMENDMENT TO ITS SECOND
SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES,
a true copy of which is attached hereto and served upon
you.

This 23rd day of September, 1982.

Bruce A. Featherstone

Fred H. Bartlit, Jr.

James H. Schink

Bruce A. Featherstone

KIRKLAND & ELLIS

200 East Randolph Drive

Chicago, Illinois 60601

(312) 861-3260

Attorneys for Monsanto Company

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.	)	NO. 78 C 1004
)	
OUTBOARD MARINE CORPORATION,)	
)	
Defendant, Third-Party)	
Plaintiff, and Cross-)	
Claim Defendant,)	
)	
and	)	Honorable Susan Getzendanner
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and Cross-)	
Claim Plaintiff.)	

DEFENDANT MONSANTO COMPANY'S THIRD AMENDMENT
TO ITS SECOND SET OF REQUESTS FOR ADMISSION
TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure, defendant Monsanto Company requests that plaintiff United States make the following admissions:

REQUESTS TO ADMIT

1. Dr. Harold E.B. Humphrey, an employee of the Michigan Department of Public Health, gave a speech at the International Symposium on PCBs in the Great Lakes at Michigan State University on March 15-17, 1982.

2. In his speech, Dr. Humphrey admitted that he is doing a follow-up study of persons who he studied and reported on in his 1976 contract report to FDA entitled "Evaluation of Changes of the Level of Polychlorinated Biphenyls (PCB) in Human Tissue." Dr. Humphrey stated that he has reviewed preliminary data from this follow-up study.

3. Some of the persons who are being reexamined by Dr. Humphrey and his group have been classified as heavy fisheaters, who consume relatively large quantities of Lake Michigan fish.

4. Dr. Humphrey admitted that his preliminary evaluation of the health data pertaining to these heavy fish-eaters did not show any correlation between any of the health problems studied and the amount of Lake Michigan fish eaten or PCB exposure through fish consumed from Lake Michigan.

5. Dr. Humphrey's preliminary evaluation of the health data pertaining to persons who consume fish from Lake Michigan has not shown any correlation between any health problem studied and any amount of consumption of Lake Michigan fish or PCB exposure through fish consumed from Lake Michigan.

6. In his reexamination of persons who eat large quantities of fish from Lake Michigan, Dr. Humphrey has studied the same health problems or effects listed in his earlier study for the FDA.

7. The results of Dr. Humphrey's preliminary evaluation of the recent health data mean that again he was unable to find that heavy consumption of Lake Michigan fish caused any of the health problems that were studied.

DATED: September 23, 1982

Bruce A. Featherstone

Fred H. Bartlit, Jr.

James H. Schink

Bruce A. Featherstone

KIRKLAND & ELLIS

200 East Randolph Drive

Chicago, Illinois 60601

(312) 861-3260

Attorneys for Monsanto Company

CERTIFICATE OF SERVICE

BRUCE A. FEATHERSTONE hereby certifies that on September 23, 1982, he caused a copy of DEFENDANT MONSANTO COMPANY'S THIRD AMENDMENT TO ITS SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES to be hand delivered, by messenger, to all counsel on the attached Service List.

Bruce A. Featherstone
Attorney for Monsanto Company

SERVICE LIST

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219 South Dearborn Street
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Sebastian Patti, Esq.
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John Van Vranken, Esq.
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Environmental Control Division
188 West Randolph Street, #2315
Chicago, Illinois 60601

Roseann Oliver, Esq.
Phelan, Pope & John, Ltd.
180 North Wacker Drive, #500
Chicago, Illinois 60606

- 3 -

RESPONSE: Plaintiff admits Request Number 7.

Respectfully submitted,

DAN K. WEBB
United States Attorney

BY:

JAMES P. WHITE
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
353-8788

JPW:brh
10-22-82

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff)	
)	
vs.)	
)	
OUTBOARD MARINE CORPORATION,)	
)	
	)	No. 78 C 1004
Defendant, Third-Party)	
Plaintiff, and Cross-)	
Claim Defendant	)	JUDGE SUSAN GETZENDANNER
)	
and)	
)	
MONSANTO COMPANY,)	
)	
Third-Party Defendant,)	
and Cross-Claim Plaintiff)	

NOTICE OF FILING

TO: (SEE ATTACHMENT)

PLEASE TAKE NOTICE that on OCTOBER 25 , 1982, Plaintiff , by its attorney, DAN K. WEBB, United States Attorney for the Northern District of Illinois, filed in the Office of the Clerk for the United States District Court for the Northern District of Illinois, PLAINTIFF'S RESPONSE TO THIRD-PARTY DEFENDANT MONSANTO COMPANY'S THIRD AMENDMENT TO ITS SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES.

Respectfully submitted,

DAN K. WEBB
United States Attorney

BY:

JAMES P. WHITE
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-8788

JPW:brh
10-22-82

A T T A C H M E N T

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180 North Wacker Drive
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James H. Schink, Esquire
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Richard J. Kissel, Esquire
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John Van Vranken, Esquire
Assistant Attorney General
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188 West Randolph, Suite 2315
Chicago, Illinois 60601

Sebastian T. Patti, Esquire
Jerrold Frumm, Esquire
Water Enforcement Division
U.S. ENVIRONMENTAL PROTECTION AGENCY
230 South Dearborn Street
Chicago, Illinois 60604

Elizabeth Stein, Esquire
Pollution Control Section
LAND & NATURAL RESOURCES DIVISION
Department of Justice
Washington, D.C. 20530

AFFIDAVIT OF MAILING

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

BELINDA R. POWELL, being first duly sworn on oath
deposes and says that he/she is employed in the Office of the United States
Attorney for the Northern District of Illinois; that on the day of
OCTOBER , 1982, he/she placed a copy of a NOTICE OF FILING
and PLAINTIFF'S RESPONSE TO THIRD-PARTY DEFENDANT MONSANTO COMPANY'S THIRD
AMENDMENT TO ITS SECOND SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED
STATES,

in a Government franked envelope addressed to each of the following named
individuals, and caused each envelope to be deposited in the United States
mail chute located in the Everett McKinley Dirksen Building, Chicago,
Illinois, on said date at the hour of about _____ .m.

SEE ATTACHMENT

SUBSCRIBED and SWORN TO before me this
day of OCTOBER , 1982.

NOTARY PUBLIC

My Commission Expires: _____

JPWhite:brh
353-8788
10-22-82

A T T A C H M E N T

Roseann Oliver, Esquire
Richard Phelan, Esquire
PHELAN, POPE & JOHN, LTD.
180 North Wacker Drive
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James H. Schink, Esquire
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John Van Vranken, Esquire
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Water Enforcement Division
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230 South Dearborn Street
Chicago, Illinois 60604

Elizabeth Stein, Esquire
Pollution Control Section
LAND & NATURAL RESOURCES DIVISION
Department of Justice
Washington, D.C. 20530

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff

vs.

OUTBOARD MARINE CORPORATION,

Defendant, Third-
Party Plaintiff,
and Cross-Claim
Defendant

and

MONSANTO COMPANY,

Third-Party
Defendant, and
Cross-Claim
Plaintiff

No. 78 C 1004

JUDGE SUSAN GETZENDANNER

PLAINTIFF'S RESPONSE TO THIRD-PARTY
DEFENDANT MONSANTO COMPANY'S THIRD
AMENDMENT TO ITS SECOND SET OF REQUESTS
FOR ADMISSION TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure,
plaintiff, United States of America, responds to third party defendant
Monsanto Company's requests to admit, as follows:

REQUEST TO ADMIT

1. Dr. Harold E.B. Humphrey, an employee of the Michigan Department
of Public Health, gave a speech at the International Symposium on PCBs in
the Great Lakes at Michigan State University on March 15-17, 1982.

RESPONSE: Plaintiff admits Request Number 1.

2. In his speech, Dr. Humphrey admitted that he is doing a follow-up
study of persons who he studied and reported on in his 1976 contract report
to FDA entitled "Evaluation of Changes of the Level of Polychlorinated
Biphenyls (PCB) in Human Tissue." Dr. Humphrey stated that he has reviewed

preliminary data from this follow-up study.

RESPONSE: Plaintiff admits Request Number 2.

3. Some of the persons who are being reexamined by Dr. Humphrey and his group have been classified as heavy fisheaters, who consume relatively large quantities of Lake Michigan fish.

RESPONSE: Plaintiff admits Request Number 3.

4. Dr. Humphrey admitted that his preliminary evaluation of the health data pertaining to these heavy fisheaters did not show any correlation between any of the health problems studied and the amount of Lake Michigan fish eaten or PCB exposure through fish consumed from Lake Michigan.

RESPONSE: Plaintiff admits Request Number 4.

5. Dr. Humphrey's preliminary evaluation of the health data pertaining to persons who consume fish from Lake Michigan has not shown any correlation between any health problem studied and any amount of consumption of Lake Michigan fish or PCB exposure through fish consumed from Lake Michigan.

RESPONSE: Plaintiff admits Request Number 5.

6. In his reexamination of persons who eat large quantities of fish from Lake Michigan, Dr. Humphrey has studied the same health problems or effects listed in his earlier study for the FDA.

RESPONSE: Plaintiff admits Request Number 6.

7. The results of Dr. Humphrey's preliminary evaluation of the recent health data mean that again he was unable to find that heavy consumption of Lake Michigan fish caused any of the health problems that were studied.